

# THE LEONARD LETTER

*February 14, 2005*

## QUOTE OF THE WEEK

*"To love deeply in one direction makes us more loving in all others."  
--- Anne-Sophie Swetchine (1782-1857), Russian-French author*

## UNDER THE DOME

### \*\*\* State Budget Primer Part 2\*\*\*

Last week I wrote about the evolution of the requirement that a two-thirds vote of the legislature is necessary to pass the budget. That requirement had its origins in the changes made to the state budget process in 1933. Among those changes was significant protection to education and transportation, but these protections have never been used.

The change I discussed last week came after a number of new taxes were added in the early 1930s in response to a decrease in revenues during the Depression. To protect taxpayers, there was a related change to the state budget process. From then on it would take a two-thirds vote of the legislature to pass a budget if spending were 5% higher than the year before.

Spending is just about always more than 5% higher so every budget since required a two-thirds vote. Except-- and these are very large exceptions-- except for education spending (kindergarten through community college) and except for special funds (the biggest being the highway account), which will always have a simple majority requirement.

Technically when the budget vote is taken if it gets a majority vote but not a two-thirds vote, only the general (not special) fund items other than public schools fail. Everything else, it might be argued, has passed. If the budget appropriations were divided up it would take fewer votes to pass the education and highway budgets than it would to pass the college, prison, health, and welfare budgets.

For a variety of political reasons neither party has ever pushed for a ruling on the question whether the budget bill can be divided into two parts.

### \*\*\*Social Security Not Meant for Everyone\*\*\*

In Newt Gingrich's new book, "Winning the Future," he has a wonderful chapter on Social Security. In it he makes the historical observation that when Social Security was

starting, life expectancy was 61.4 years for men and 65.7 for women. Therefore, Social Security's original promise to pay full benefits, at age 65, was a promise to less than half the population.

By Gingrich's calculations, the number of workers per retiree is expected to fall to two by the year 2040, from 4.2 workers per retiree in 1940. Clearly, this is not going to work. In order to avoid generational bitterness, and/or European style budget deficits, we must take concrete steps to change the system. As FDR said so famously, "We have nothing to fear, but fear itself."

## **TAX NOTES**

### **\*\*\*The Laugh Factor\*\*\***

Some people consider taxes to be a boring, droll subject. And I cannot deny that I do some very dry reading. However, every once in awhile there is a bit of humor that brightens even the dull world of tax minutia.

First, in a case before the Board, a taxpayer had submitted amended tax returns for one year of his businesses three times. On each of those amended returns, he claimed a net operating loss carryback, something the Rev and Tax Code does not allow. When the taxpayer appealed his case to the Board, the request for the carryback disappeared. Instead, he now claimed that he had a trucking and hauling expense. He provided no document of that expense and, coincidentally, lowered his tax liability by the same amount that the theoretical carryback would have. The truly funny part of the case was a quote from the taxpayer's CPA, who said, "[I]t did not appear that the corporation should show a net taxable income when there was never any money in the bank at month end or at year-end." Ahh, if only filing taxes were that simple!

Second, a tax official in Ohio has been suspended for one week without pay. The malfeasance? Attempting to introduce some levity into the otherwise staid city tax return form instruction. Among his lines: "If we can tax it, we will" and "'Free advice: if you don't have a profit in a five-year period, you might want to consider another line of work.'" Both statements may advance the cause of honesty in government, but perhaps fall short of the concept of justice for taxpayers.

### **\*\*\*Federal Tax Reform\*\*\***

The momentum is growing for changes in the federal government's tax laws and Californians have a big stake in the outcome. Controller Steve Westly has already weighed in with a condemnation of the idea of eliminating the income tax deduction for state and local taxes. Since California is a high tax state (which you already know), such a change would theoretically raise federal taxes on Californians. But Westly has ignored the larger issues. First why should the federal government ever give incentives like this

for states to impose high taxes on their people? Second, if this reform is coupled with a lowering of the overall tax rate and an elimination of the Alternative Minimum Tax (AMT), then this would be a great gain for California's taxpayers.

Former senator and finance director Steve Peace has pointed out in great detail how the Federal AMT tax is a gun aimed at California. We have more taxpayers who now pay this tax and the number is growing so rapidly that Peace predicts that almost every middle income Californian will be paying the AMT soon. Even if you do not pay the AMT, Peace also explains that you or your tax preparer are required to take the time to fill out the forms proving that you do not owe this tax, thus driving up the cost of tax preparation.

I recommend that Controller Westly read up on the AMT from Senator Peace's work, which he can find at: <http://www.catoday.com/default.htm>  
We should be joining together to find ways to kill the AMT tax in Washington before it swallows us whole in California.

## **MISCELLANY**

### **\*\*\*A Good Read\*\*\***

Continuing with Human Events' list of the ten best biographies, today's suggestion is Russell Kirk's "The Sword of Imagination: Memories of a Half-Century of Literary Conflict." Russell Kirk is best known as the author of "The Conservative Mind," considered to be the beginning of the modern conservative movement. His biography discusses how he came to his political philosophy and describes the many renowned Americans he worked with during his life. It is also an inspiring tale of personal conviction, optimism in the face of tragedy and the difference that acts of faith can make. One of the more touching aspects of the book is Kirk's explanation of his personal goals. His third is one I wish for more people: "to marry for love and to rear children who would come to know that the service of God is perfect freedom."

## **BOE AND LEGISLATIVE DATES**

**February 1 – March 31, 2005** --- Application period for tax amnesty.

**February 14, 2005** --- Abraham Lincoln's birthday observed.

**February 21, 2005** --- George Washington's birthday observed.

**March 17, 2005** --- Legislature's spring recess begins.

**March 28, 2005** --- Cesar Chavez's birthday observed.

**March 29, 2005** --- Legislature reconvenes from spring recess.

## **NOTABLE DATES/ HISTORY**

**February 14, 1872** --- First state bird refuge authorized (Lake Merritt ,CA).

**February 14, 1961** --- Element 103, Lawrencium, was first produced in Berkeley, CA.

**February 15, 1799** --- First U.S. printed ballots authorized (Pennsylvania).

**February 16, 1959** --- Fidel Castro became premier of Cuba after overthrowing Fulgencio Batista.

**February 17, 1801** --- House of Representatives broke Electoral College tie, choosing Jefferson as President over Burr.

**February 17, 1972** --- President Nixon left Washington D.C. for China.

**February 18,1849** --- First regular steamboat service to San Francisco began with gold rush prospectors from east coast.

**February 18, 1960** --- The eighth Winter Olympics games opened in Squaw Valley, CA.

**February 19, 1913** --- The first prize inserted into a Cracker Jack box.

**February 19, 1982** --- Sharie Langford of California, set the women's bowling series record of 853.

**February 20, 1873** --- University of California's first Medical School opened at the University of California/San Francisco.

**February 20, 1902** --- Heavy surf broke over Seal Rocks and damaged the Sutro Baths in San Francisco.

**February 20, 1937** --- The first automobile/airplane combination was tested (Santa Monica, CA).

**February 20, 1947** --- A chemical mixing error caused an explosion that destroyed 42 blocks in Los Angeles.

## **GENERAL TAX INFORMATION**

For answers to your general tax questions, call the Board of Equalization information center. Customer service representatives are available to help you from 8:00 a.m. to 5:00 p.m. Pacific time, Monday through Friday (except state holidays).

Toll-free number: 800-400-7115  
TDD service for the hearing impaired  
TDD phones: 800-735-2929  
Voice phones: 800-735-2922

To reach the Taxpayer Rights Advocate's office for assistance with any BOE issues, see <http://www.boe.ca.gov/tra/tra.htm>, or call toll-free 1-888-324-2798.

## HOW TO CONTACT ME

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